IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 7306 of 2007(T)

PETITIONER:

M/S.VIDYUT METALLICS PVT.LTD.,
HALCYON, 27/3152, C/D/E, MAIN AVENUE,
PANAMPILLY NAGAR, ERNAKULAM 20,
REPRESENTED BY ITS BRANCH MANAGER/DEPOT INCHARGE,
SHRI KRISHNA SWAMY.R.

BY ADV. SRI.A.KUMAR

RESPONDENTS:
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1. DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM, KERALA.

2. ASSISTANT COMMISSIONER (AUDIT
ASSESSMENT), DEPARTMENT OF COMMERCIAL TAXES,
ERNAKUALM, KERALA.

BY GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 7306/2007 T

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PRE ASSESSMENT NOTICE DT. 9/11/2006.

EXT.P2. COPY OF THE RELEVANT PAGE OF THE REPLY DT. 29/11/2006.

EXT.P3. COPY OF THE ASSESSMENT ORDER DT. 30/11/2006 WITH NOTICE OF DEMAND.

EXT.P3A. COPY OF THE NOTICE FOR DEMAND OF INTEREST DT. 28/12/2006.

EXT.P4. COPY OF THE MEMORANDUM OF APPEAL DT. 6/1/2007.

EXT.P5. COPY OF THE APPLICATION FOR STAY DT. 6/1/2007.

EXT.P6. COPY OF THE ORDER PASSED IN THE APPLICATION FOR STAY DT. NIL.

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K.BALAKRISHNAN NAIR, J.

W.P.(C).No.7306 OF 2007-T

Dated this the 6th day of March, 2007

JUDGMENT

The petitioner challenges Ext.P6 order passed by the first respondent appellate authority dismissing its application for stay against collection of balance tax for the assessment year 2002-2003. The petitioner is a dealer in safety razor blades and other shaving accessories. The main dispute raised in this writ petition is whether the safety razor blade can be treated as stainless steel and levy tax at the rate of 12 %. The learned counsel for the petitioner contended that safety razor blades are not made of stainless steel and he points out that his contention is supported by the decision of the Allahabad High Court in Sharpedge Limited Vs. Commr.of Sales Tax (73 STC 90).

2. Heard the learned Government Pleader for the respondents.

3. Having regard to the facts of the case, I feel that the petitioner is entitled to get interim order on more liberal terms. If the petitioner pays Rs.50 lakhs (Rupees fifty lakhs) within two weeks from today and furnishes security for the balance amount, the recovery under the orders impugned before the appellate authority shall remain in abeyance, till the disposal of the appeal. The appellate authority

shall endevour to dispose of the appeal as expeditiously as possible. The petitioner shall co-operate with the appellate authority for the disposal of the appeal. If the petitioner seeks adjournment without any justifiable reason, the appeal can be disposed of rejecting such request.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS